REMARKS

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

Claims 1—5, 11-15,21-25,31-38,40-44,46-49, 51,54,55,58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentabte over Haggard et al. in view of USPN 6,317,787 issued to Boyd et al. in further view of USPN 5,913,041 issued to Ramanathan et al.

(Amended) Regarding claims 1, 11, and 21. Haggard et al. teach a method (claim 1), a system (claim 11), and a computer program (claim 21) for real-time measurement of the performance of communications on a large area network between a selected server and a plurality of users, based upon actual user experience, including accessing a server log having records of actual user access to the selected server (Abstract); aggregating records from the server log into a database (col. 7, lines 22-44); performing at least one statistical analysis of each time bin on each aggregate slot (col. 7, lines 22-44); and outputting the results of such statistical analysis as an indication of actual server usage by users (Abstract; col. 2, lines 51-67--col. 3, lines 1-6; col. 7 Lines 23-44; fig.5).

However Haggard et al. fail to explicitly teach: accessing a server log having records indicative of routings through the network of actual user access to the selected server; aggregating records from the server log into a plurality of aggregate slots, each slot having at least one time bin which represents an interval of time, based on an aggregation method; and performing at least one statistical analysis separately of each time bin on each aggregate slot.

Ramanathan teaches accessing a server log having, records indicative of routings through the network of actual user access to the selected server (abstract; col. 3, lines 14-25).

The Applicant would like to thank the Examiner for the telephonic interview conducted on October 17, 2005. During the interview, the Applicant argued the patentable distinctions of claim 1 over the Ramanathan reference as pertaining to routings through a network. The Examiner indicated that amending the claims to more clearly define routings through a network could put the application in condition for allowance provided that the Examiner does not find any prior art describing the amended claims in a further search.

Ramanathan neither discloses nor suggests that the server-log records are indicative of routings through nodes of the network, "wherein at least one of the nodes is part of a communication path connecting one of the client machines to the selected server," as recited in amended claim 1. Although the log entries of Ramanathan include a source and a destination (see Abstract), the log entries are not disclosed or suggested to include routings through a node that is part of a communication path connecting the source to the destination. Furthermore, a detailed description of the contents of the log entries, provided in Ramanathan at col. 5, line 57 – col. 6, does not describe routings through a node that is part of a communication path connecting a client machine to a selected server.

In Ramanathan, the performance of the network is measured with respect to a source and a destination so that when network problems occur, the network operator can readily identify whether the problem is linked to a particular source or a particular destination. For example, in col. 7, lines 46 to 57, Ramanathan describes correlating the network performance with the locations of the client machines and the servers to localize a network problem:

> ...the throughput estimates at step 58 are obtained for the individual remote sites 12, 14 and 16. Estimates can also be obtained for the groups of subscribers that are located in the same neighborhood of the network or that use a specific set of network channels. Upon receiving a trouble report from a subscriber, a network operator can relatively easily determine whether the problem is being experienced by other subscribers or whether the problem is specific to the subscriber that initiated the report. Thus, a fault may be isolated to a single channel or a set of channels, or even to the connectivity to a single remote site, e.g., a problem with the subscriber's home wiring.

In col. 8, lines 36 to 47, Ramanathan also discloses that the performance measured with respect to the remote servers may be used to determine whether resources need to be reallocated or supplemented between the servers and which servers in particular require additional capacity:

> In the resource allocation planning implementation of step 62, throughput measuring is used to determine whether system resources should be reallocated or supplemented. A reduction in throughput occurs when the network interconnecting the server system 10 to the remote sites 12, 14 and 16 is congested. Throughput reduction is also inevitable when the server or servers 18, 20 and 22 are overloaded. By monitoring throughput drops and initiating further diagnosis, such as checking for packet drops at network routers, a network operator can ascertain conditions in which additional capacity is required to maintain a specific quality of service.

Ramanathan, however, never mentions that a network problem could be associated with a node that is part of a communication path connecting a client machine to a selected server.

> **Boyd et al. teach: aggregating records from the server log into a plurality of aggregate slots, each slot having at least one time bin which represents an interval of time, based on an aggregation method (figure 5; col. 1, lines 27-35; col. 2,,lines 5-11; col. 3,' lines 47-59; col. 8. lines 37-42); and performing at least one statistical analysis separately of each time bin on each aggregate slot (col. 3 lines 47-59; col. 4, lines 10-25).**
>
> **At the time the invention was made, it would have been obvious to one of ordinary skill in the art to access a server log having records indicative of routings through the network of actual user access in order to calculate and monitor throughput (Ramanathan col. .3, lines 43-45), and aggregate records into a plurality of aggregate slots having time bin and analyzing the slots separately in order to identify trends, statistics and other information regarding traffic data (Boyd, col. 4, lines 18-20), therefore, facilitating in analyzing users experience on the network.**

Haggard and Boyd do not disclose or suggest anything that would remedy the foregoing deficiencies of Ramanathan with respect to routings through nodes, wherein at least one of the nodes is part of a communication path connecting one of the client machines to the selected server. The Applicant does not agree that Haggard, Boyd, and Ramanathan are combinable. However, even if these references could be combined, their combination would not yield the features of claim 1.

> **Regarding claims 2, 12, and 22, Haggard et al. fail to teach the method of claim 1, the system of claim 11, and the computer program of claim 21 further including filtering out selected records from the server leg before the step of aggregating. Boyd et al. teach filtering out selected records from the server log (figures 6 and 7, no. 64). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to filter out selected records from the server before the step of aggregating in order to remove unwanted records that will not be analyzed, thus improving the speed in making performance analysis.**

The applicant respectfully disagrees. Boyd neither discloses nor suggests filtering out selected records from the server log before the step of aggregating as recited in claim 2. Rather, in FIGS. 6-8 and accompanying text in col. 6, line 57 to col. 8, line 7, Boyd describes sorting hits to provide a chronological listing of hits according to the time that the hits were generated.

Sorting is not the same as filtering. Nowhere, does Boyd disclose or suggest filtering out selected hits from the server log, much less filtering out selected hits before aggregating the hits.

Regarding claims 3, 13, and 23 ...

Regarding claims 4, 14, and 24 ...

Regarding claims 5, 15, and 25 ...

Regarding claim 31 ...

Regarding claims 32, 40, and 46 ...

Regarding claims 33 and 41 ...

Regarding claims 34, 42 and 47 ...

Regarding claim 35 ...

Regarding claim 36 ...

Regarding claims 37, 43 and 48 ...

Regarding claims 38, 44 and 49 ...

Regarding claims 51, 55, and 59 ...

Regarding claims 54 and 58 ...

Claims 39, 45 50, 53, 57 and 61 ...

Regarding claims 39, 45 and 50 ...

Regarding claims 53, 57, and 61 ...

Claims 52, 56, and 60 ...

Independent claims 11 and 21 are patentable for at least the reasons for which claim 1 is patentable. All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim

does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Enclosed is a check for a one-month petition-for-extension-of-time fee, please apply any other charges or credits to deposit account 06-1050, reference 10559-096001.

Respectfully submitted,

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